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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,574	03/12/2004	Hoon Kim	P57012	6505

7590 07/17/2006
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EXAMINER

DICKEY, THOMAS L

ART UNIT PAPER NUMBER

2826

DATE MAILED: 07/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/798,574	Applicant(s) KIM, HOON	
	Examiner Thomas L. Dickey	Art Unit 2826	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: 2, 5, 6 and 14.
 Claim(s) rejected: 1, 3, 4, 13, 15, 16, 21 and 22.
 Claim(s) withdrawn from consideration: 7-12 and 17-20.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: _____.

Continuation of 3. NOTE: Whether the claim 22 step is included in the buffer layer being formed on a single body of said buffer layer with the step protruding from a flat of said buffer layer presents a new issue not previously searched and considered. Consideration must first be given to the broadest reasonable construction (consistent with the specification) of new claim terms "included in," "single body," and "flat portion." Next the claim, including elements corresponding to these new terms, must be searched..

Continuation of 11. does NOT place the application in condition for allowance because: It is argued, at page 11 of the remarks, that "the claim states 'a buffer layer... said buffer layer having a step'." This argument leaves unanswered the critical question: Consistent with the specification, what is the broadest reasonable meaning of the term, "a buffer layer?" Applicants clearly state their view is that the two part layer of Busta is not the claimed layer, but Applicants put forward no argument, or evidence, of what the language claiming said layer should actually be construed as.

It is argued, at page 12 of the remarks, that "However, 36 is defined as a-n+Si:H (column 5, lines 6-10), which is a hydrogenated amorphous silicon. A hydrogenated amorphous silicon is a non-crystalline form of silicon, which is then not necessarily a polysilicon." However, Applicants cite a portion (col. 5 lines 6-10) of Busta that, in Busta's exact words, states that "The layers 32 and 36 could also be formed of microcrystalline [emphasis added] n.sup.+ Si instead of a-n.sup.+ Si:H." Microcrystalline silicon is a crystalline form of silicon, which is then necessarily a polysilicon. Why have Applicants cited this portion of Busta solely for the proposition that layer 36 is amorphous? Why do Applicants not cite this portion for the proposition that layer 36 may be either amorphous or microcrystalline, which is what it actually states? Do Applicants feel their duty to disclose allows them to pick and choose amongst those items they wish to disclose?

It is argued, at page 13 of the remarks, that "However, the measurements given for the layers above, are for the intermediate product and not the final product. For example, in example one of Adachi, it states, 'Then, an amorphous silicon film 13 is deposited on the silicon oxide film 12 by a plasma CVD to a thickness of 500.ANG. to 1500.ANG. for example, 1000.ANG.' Therefore, it is the intermediate measurements given and not the final. The claim relates to a final product and not the intermediate product as the measurements disclose in Adachi and so the identical invention is not disclosed." Applicants seem to be exercising their perceived privilege to pick and choose amongst the items they wish to disclose again. Adachi's example 1, cited here by Applicants, also states (column 4 line 36) that step "y" is 80-90 angstroms. And in column 8 line 52 Adachi et al. state that gate insulation layer (in its final product) 65 may be up to 300 angstroms thick. Adachi et al. achieve a step so small (80-90 angstroms) that it is less than half the thickness of the gate insulation layer alone, and thus obviously less than half the sum of the thicknesses of the gate insulation layer and the activation layer, regardless of the method used to make the activation layer.



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